

App. 1

LEE JOHNSON
ATTORNEY GENERAL

JAMES W. DURHAM
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION
103 STATE OFFICE BUILDING
SALEM, OREGON 97310
TELEPHONE (503) 378-4620

March 29, 1976

Mr. Robert Mix
745 N.W. VanBuren
Corvallis, Oregon 97330

Re: Source of Title in Corvallis Case

Dear Mr. Mix

This is to follow up my conversations with you concerning the source of title to all property in dispute in the Corvallis case.

In Oregon, the lands received by the State from the Federal Government were either school lands in sections 16 and 36 of each township, the seventy-two sections received by the State from the Federal Government for a State university, (the university grant), or the 10 sections received from the Federal Government for the Seat of Government (the capitol grant), 11 Stat 383. None of the sections involved in this case, however, as shown by Exhibit 1b in evidence, are part of sections 16 and 36 and, therefore, no school lands were received by the State in the Corvallis area. Nor, are any sections of the Capitol Grant involved.

The State, however, did receive a portion of Section 12, Township 12 South, as part of its university grant and, as to this portion, the State did convey to Green B. Smith lots 1, 2 and 5, and the North half of Lot Nos. 3 and 6 and the North half of the Northwest quarter of the Southeast quarter (copy of deed enclosed). This property is along the right bank of the river. Only lots 5 and 6 are pertinent being approximately opposite Lots 10 and 9 of Section 12.

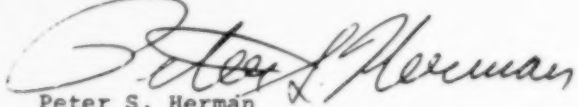
As to the remainder of the property involved in the Corvallis case, the source of title, of course, is either federal patents

App. 2

Mr. Robert Mix
March 29, 1976
Page 2

or, in the case of the existing riverbed and the abandoned riverbed, whatever title the State now has, if any, would have been by virtue of the equal footing doctrine.

Sincerely

A handwritten signature in cursive script, appearing to read "Peter S. Herman".

Peter S. Herman
Senior Counsel

dc
Enclosure

OREGON CITY 1
UNIVERSITY

51

STATE OF OREGON.

In consideration of Six Hundred and ninety ~~two~~ ^{four} Dollars,
paid to the Board of Commissioners for the sale of School Lands, the State of
Oregon doth grant bargain, sell and convey unto Green B. Smith
his Heirs and Assigns, the following described
premises, to wit:

Lots nos one, two and five and
the north half of Lot three and the north
half of lot no six and the north half of the
north west quarter of the Southeast quar-
ter: all in Section 12. Township 12 South
Range 5 West Willamette Meridian and
containing in all one hundred and fifty
three ⁵⁵/₁₀₀ ⁵⁵/₁₀₀ acres and situate in Clatsop
County of Benton and State of Oregon

To Have and to Hold, the said premises, with their appurtenances unto the
said Green B. Smith his Heirs and Assigns forever; and
that the State will warrant and defend the same from all lawful claims whatsoever.
Witness the Seal of the State, official this 21st day of February
1871

L. F. Johnson
S. T. Chodwick
L. Fleischer

Governor.

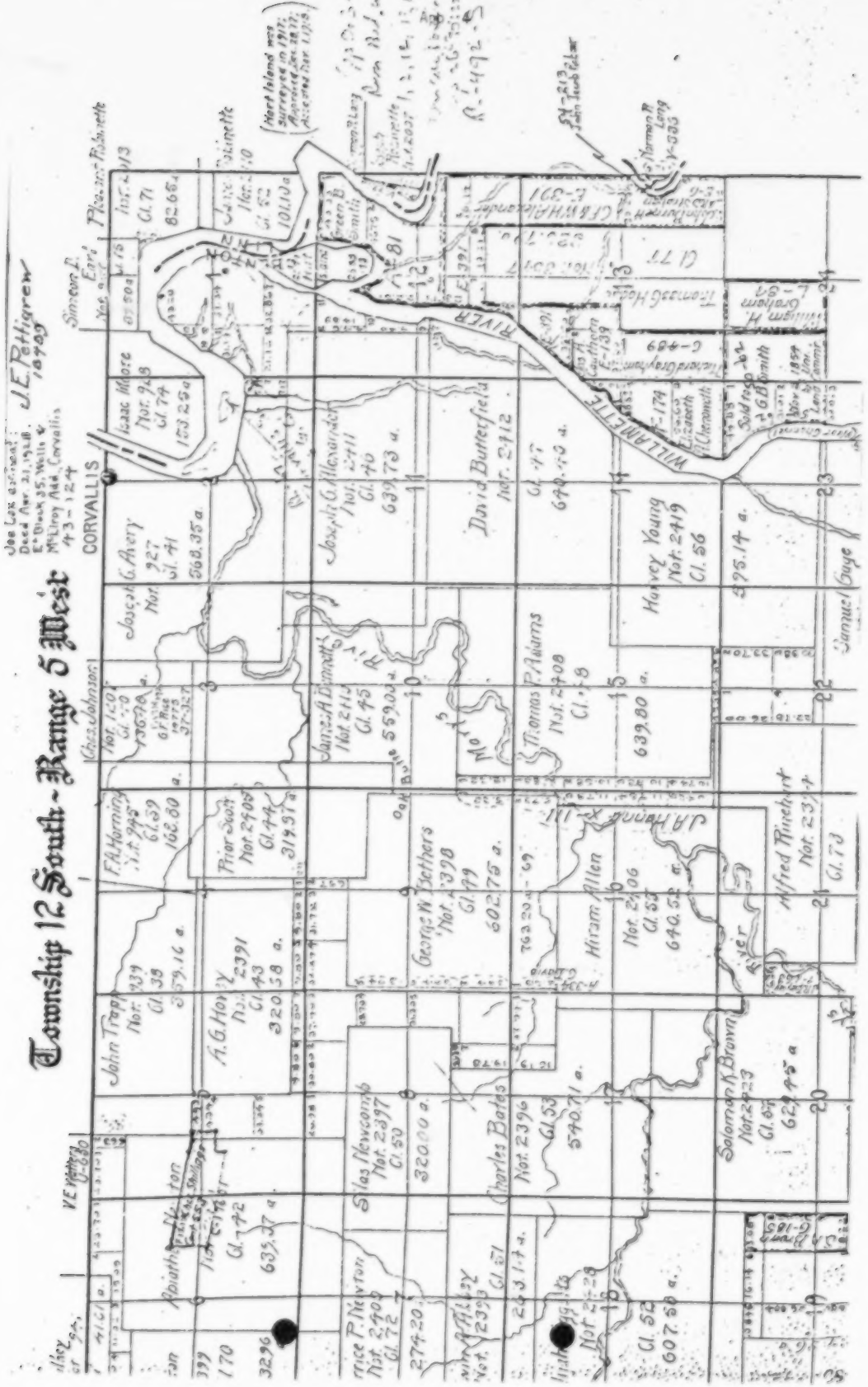
Secretary.

Treasurer.

BEST COPY AVAILABLE

Township 12 South - Range 5 West

Joe Cox arrived:
Dead Nov. 21, 1918.
E. O. Quirk, 35, Wells &
McLeroy Add., Corvallis
4-3-124



App. 5



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT CORPS OF ENGINEERS
P. O. BOX 2946
PORTLAND, OREGON 97208

REPLY TO
ATTENTION OF:

NPPND-WM-2

28 May 1976

RECEIVED MAY 31 1976

Mr. Robert Mix
Attorney at Law
745 N.W. Van Buren
Corvallis, OR 97330

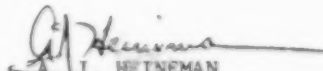
Dear Mr. Mix:

Your letter of 13 May requested information on maintenance of a navigation channel in the Willamette River upstream of Corvallis. Our records show that no dredging has ever been performed upstream of Corvallis.

The Flood Control Act of 28 June 1938 provides for improvement of the Willamette River including a channel 2 to 2½ feet deep from Corvallis to Eugene. In 1904 the reach between Harrisburg and Eugene was determined unworthy of improvement and no work has been accomplished. Development of a navigation channel above Corvallis is not economically feasible.

If we can be of further help to you in this matter, please feel free to call on us.

Sincerely,


J. HEINEMAN
Chief, Navigation Division



I hereby certify that I served the foregoing Reply Brief of Petitioner on Peter Herman, of attorneys for respondent on the day of September, 1976, by mailing to him three true and correct copies thereof, certified by me as such. I further certify that said copies were placed in a sealed envelope addressed to the said attorney at Department of Justice, 103 State Office Building, Salem, Oregon 97310, which is his regular office address, or his address as last given by him on a document which he has filed in the within entitled cause and served on me; said sealed envelope was then deposited in the United States post office at Corvallis, Oregon, on the day last above mentioned, with the postage thereon fully paid.

Robert Mix
Attorney for Petitioner